

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of the Application of
Duke Energy Ohio, Inc. for a Waiver.**

Case No. 16-1096-EL-WVR

INITIAL COMMENTS OF THE CITY OF CINCINNATI

I. INTRODUCTION

On May 13, 2015, Duke Energy Ohio, Inc. (“Duke”) filed an application with the Public Utilities Commission of Ohio (“Commission” or “PUCO”) requesting a temporary waiver to the requirement under Ohio Adm.Code 4901:1-18-06(A)(2) that it provide residential customers with personal notice on the day of electric service disconnection. The City of Cincinnati (the “City”) files its initial comments in opposition to Duke’s application. For the reasons set forth below, the City opposes Duke’s application.

II. OBJECTIONS TO WAIVER

Ohio Adm.Code 4901:1-18-06(A)(2) requires Duke and other Ohio utility providers to provide personal notification or posting of notice on the premises prior to disconnecting utility services for nonpayment. Within the City, this personal or physical notification requirement serves to protect the City’s most vulnerable residents from having their electric service disconnected without sufficient notice and without a final opportunity to avoid disconnection. Duke’s proposal to substitute in-person or physical notification with text message and/or automated phone call notifications does not adequately provide necessary protections or opportunities to avoid the deleterious consequences that invariably attend the disconnection of a vital public utility service.

A. Text Message and Automated Phone Message Notifications Are Unlikely to Reach Many Consumers Facing Imminent Electric Service Disconnection.

Ohio Adm.Code 4901:1-18-06(A)(2) is in place to provide consumers with a final opportunity to avoid disconnection of a critical public utility service. Duke's proposal to substitute in-person or physical notice with a text message and/or an automated phone call is wholly inadequate to provide the intended notice, because it is not a dependable means of reaching customers, especially low-income and vulnerable and elderly populations, with the urgent message that disconnection of electric service is imminent. Indeed, as the PUCO held in Duke's waiver application case in 2010, which concerned the same issues before the Commission in the instant case, it is unclear whether "customers who have not paid their utility bill ... [will actually] have immediate access to text or electronic message..."¹ Six years later, Duke's renewed application for a waiver on the exact same subject fails to address this identical concern. As emphasized by Communities United for Action ("CUFA") and ProSeniors, Inc. ("Pro Seniors"), communication with low-income consumers, who are more likely to face disconnection, is much less reliable by text message or automated phone call than it is with in-person or on-site notification. Cell phone numbers change with frequency. And it is unclear what process Duke has in place to support the reliability of its customers' cell phone numbers. Moreover, at the time of disconnection, many low-income customers will not only be struggling to pay their utility bills, but they may have problems meeting other basic needs as well, including the cost of cell phone service. Thus, many low-income customers, who for reasons such as expired minutes, may not have adequate cell phone service at the very moment when electrical service will be disconnected.

¹ *In the Matter of the Application of Duke Energy Ohio, Inc. for a Waiver of Certain Sections of the Ohio Administrative Code for SmartGrid Pilot Programs*, Case No. 10-249-EL-WVR, Entry (June 2, 2010), ¶ 29.

B. Duke's Application for Waiver Fails to Address the In-Person Notification Payment Options Under Ohio Adm. Code 4901:1-18-06(A)(4).

Ohio Adm.Code's current regulations effectively provide consumers a final opportunity to avoid disconnection through making payment or other "means to avoid disconnection." *See* Ohio Adm.Code 4901:1-18-06(A)(4). This is because, in conjunction with the notification requirement currently set forth in Ohio Adm.Code 4901:1-18-06(A)(2), section (A)(4) of that same provision allows Duke's on-site representative to accept payment in lieu of disconnection or to provide other options to avoid disconnection. Duke's proposal to send a text message and/or automated phone call notification does not provide an adequate substitute for customers willing to tender payment to avoid disconnection as is required under Ohio Adm.Code 4901:1-18-06(A)(4). Duke claims that the text message notification will include a link to allow the customer to make a payment online. However, not all customers have access to the internet via a cell phone or otherwise, and many may not have access to a credit card or other means of electronic payment. Moreover, many customers may be understandably uncomfortable submitting sensitive financial information (e.g., a credit card number) through a link embedded in a text message on their cell phone. Accordingly, under Ohio Adm.Code 4901:1-18-06(A)(4), Duke's proposed text message payment option is not an adequate substitute for customers willing to tender payment to prevent disconnection.

Duke has argued that, under its current practice, the in-person representative directs the consumer to make payment arrangements by phone, and at any rate, makes contact in "only about 7 percent of the premises visits."² Duke cannot contest that, in the vast majority of cases, even when in-person contact is not made, some type of written notification is affixed to the premises in a conspicuous location for the consumer to review. Presumably, this written,

² *Duke Energy Ohio's Reply to the Objections of CUFA and ProSeniors*, p. 4.

tangible notice provides information as to the reason for disconnection, as well as how to avoid disconnection, or restore service, and other important details. If Duke were to only provide text message or automated phone notification of imminent disconnection, it is unclear whether the notice would be received by the consumer in the first place, and in turn, whether the payment options required by Ohio Adm.Code 4901:1-18-06(A)(4) would be satisfied.

C. The City Supports and Concurs with Other Intervenors' Objections.

In addition to the reasons set forth above, the City concurs with and adopts the objections filed by CUFA, Pro Seniors, the Office of the Ohio Consumers' Counsel ("OCC"), and Ohio Partners for Affordable Energy ("OPAE").

III. CONCLUSION

WHEREFORE, the City respectfully requests that the Commission, in issuing any order concerning Duke's request for a waiver of Ohio Adm.Code 4901:1-18-06(A)(2), specifically consider and adopt its foregoing comments and concerns.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that the foregoing Initial Comments was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 19th day of August, 2016. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

/s/ Mark T. Keaney

One of Attorneys for the City of Cincinnati

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Summary: Comments Initial Comments of the City of Cincinnati electronically filed by Mr. Mark T Keaney on behalf of City of Cincinnati